WILL ID WADE at a

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

WILLIE WADE et al.,	
Plaintiffs,)
vs.) 2:08-cv-01102-RCJ-RJJ
CARRIAGE CEMETERY SERVICES, INC. et al.,	ORDER
Defendants.))

This case arises out of the accidental cremation of Theodore Kennedy, contrary to the wishes of his family that he be buried. Defendant Palm Mortuary has come to a settlement agreement with Plaintiffs. Pending before the Court is Defendant Palm Mortuary's Motion for Determination of Good Faith Settlement (#77). Plaintiffs have filed a notice of non-opposition. (*See* #82). No Defendant has filed an opposition.

In Nevada, an alleged tortfeasor is released from future indemnity or contribution liability to another tortfeasor when a court determines that a settlement agreement the first tortfeasor has entered into with a plaintiff was made in good faith. Nev. Rev. Stat. § 17.245(1)(b). A trial court has "considerable discretion" in determining good faith under the statute. *Doctors Co. v. Vincent*, 98 P.3d 681, 686–87 (2004) (citing *Velsicol Chem. v. Davidson*, 811 P.2d 561, 563 (1991)).

Palm Mortuary and Plaintiffs have agreed that Palm Mortuary, without admitting fault, will pay a total settlement of \$100,000: \$15,000 to Viola Washington, \$15,000 to James Kennedy,

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\$25,000 to Carnell Washington, \$20,000 to Willie Wade, and \$25,000 to Theodore Kennedy, Jr., in exchange for a full and final release of all claims against Palm Mortuary arising out of the allegedly negligent cremation of Theodore Kennedy. One-hundred thousand dollars is a significant sum and is sufficient to compensate five persons for the allegedly negligent cremation of their deceased relative. *See, e.g., SCI Ala. Funeral Servs., Inc. v. Brown*, 770 So. 2d 97 (Ala. Civ. App. 1999) (affirming a remitted verdict of \$37,000 in favor of four plaintiffs for the negligent burial of their father); *Tomasits v. Cochise Memory Gardens, Inc.*, 721 P.2d 1166 (Ariz App. 1986) (affirming a verdict of \$1000 in compensatory damages and \$25,000 in punitive damages for the mishandling of two corpses). The Court in its discretion finds the settlement to have been made in good faith pursuant to § 17.245.

CONCLUSION

IT IS HEREBY ORDERED that the Motion for Determination of Good Faith Settlement (#77) is GRANTED.

United States District Judge

DATED: March 15, 2010